

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MOSES SCHWARTZ and PINE BUSH
CONSTRUCTION CORP.,

Plaintiffs,

-against-

22 Civ. 9228 (VB) (AEK)

THE TOWN OF CRAWFORD and
TOWN OF CRAWFORD TOWN BOARD,

Defendants.

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CONFIDENTIALITY AND PROTECTIVE ORDER

WHEREAS, Plaintiffs Moses Schwartz and Pine Bush Construction Corp. (“Plaintiffs”) commenced this action against Defendants the Town of Crawford and Town of Crawford Town Board (collectively “Defendants” and, together with Plaintiffs, the “Parties”);

WHEREAS, Plaintiffs served non-party subpoenas on Suzanne Schubert and David Sill (the “Non-Parties”), the administrators of the Town of Crawford Now Facebook group, on or about May 30, 2023;

WHEREAS, on February 16, 2024, the Non-Parties expressed concerns about providing Plaintiffs with materials that would force the Non-Parties to disclose the identities of other previously unidentified members of the Town of Crawford Now Facebook group;

WHEREAS, the Non-Parties believe that materials responsive to Plaintiffs’ subpoenas will entail the production of documents and electronically-stored information and may involve documents, information and things containing confidential, highly-sensitive, personal and/or proprietary information; and

WHEREAS, on February 16, 2024, the Court ordered the Non-Parties to respond to Plaintiffs’ subpoenas by March 13, 2024, and subsequently extended that deadline on March 13, 2024, and March 19, 2024; and

WHEREAS, Plaintiffs and the Non-Parties submitted competing proposals regarding the scope of this confidentiality and protective order, *see* ECF Nos. 74, 76;

NOW IT IS HEREBY ORDERED THAT:

(1) the materials that the Non-Parties provide to the Parties in response to Plaintiffs’ subpoenas to the Non-Parties (“Non-Party Materials”) are to be designated “Attorneys’ Eyes Only,” such that only the Court and the Parties’ counsel (including their staff members), and not the Parties themselves, are permitted to receive and review the Non-Party Materials;

(2) the Non-Party Materials will be held and used by counsel for the Parties solely for use in connection with this lawsuit;

(3) any Party seeking to use materials produced by the Non-Parties—including for purposes of discovery or any Court filings—must make an application to Magistrate Judge Krause for consideration, with at least three days’ advanced notice to counsel for the Non-Parties;

(4) if any Party makes an application to Magistrate Judge Krause in accordance with paragraph (3), there is no presumption that the Non-Party Materials shall be filed with the Court under seal; rather, the Parties must follow Magistrate Judge Krause’s procedures for requests for filing under seal;

(5) at the conclusion of this lawsuit, the Non-Party Materials and any copies thereof must be promptly (and in no event later than 30 days after entry of final judgment no longer subject to further appeal) returned to counsel for the Non-Parties or certified as destroyed, except that the

Parties' counsel shall be permitted to retain their working files on the condition that those files will remain protected;

(6) nothing herein shall preclude the Parties from disclosing the Non-Party Materials if otherwise required by law or pursuant to a valid subpoena, provided, however, that the Parties must provide the same three days' advanced notice to counsel for the Non-Parties (*see* paragraph (3)) before making any such disclosure.

Dated: April 15, 2024
White Plains, New York

SO ORDERED.



ANDREW E. KRAUSE
United States Magistrate Judge